



Appeal Decision

Site visit made on 24 August 2022

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2022

Appeal Ref: APP/H5390/C/22/3295402

562 Kings Road, Fulham, London SW6 2DZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Chelsea Lodge Holdings Ltd against an enforcement notice issued by London Borough of Hammersmith and Fulham.
- The notice, numbered 202/00855/CONDS, was issued on 11 January 2022.
- The breach of planning control as alleged in the notice is without planning permission, the installation of white rendered facade to the front and side elevations at ground floor level; the infilling of the 3 ground floor windows to the side elevation facing Holmead Road and the erection of white render porch to the main entrance on the front elevation facing King's Road.
- The requirements of the notice are to:
 - A. Remove the white rendered facade and white rendered porch to the front and side elevation facing King's Road and Holmead Road at ground floor level. The white render facade and white rendered porch has been highlighted in red in photos exhibits 1, 2 and 3 attached within this notice, and
 - B. Refurbish or replace any damaged traditional red glazed wall tiles and/or other materials located behind the white rendered facade, located on the front and side elevations facing King's Road and Holmead Road at ground floor level. The red glazed wall tiles are shown in exhibits 4 and 5, included within this notice, and
 - C. Reinstate the three traditional timber framed sash ground floor windows to the side elevation facing Holmead Road. The replacement windows shall match the traditional sash windows in terms dimensions; colour; width and depth of the window frames; and pattern of glazing bars. The 3 traditional windows are shown in photos exhibits 6 and 7.
- The period for compliance with the requirements is: six months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The ground (a) appeal and the deemed application

2. Having regard to the reasons for issuing the notice, the main issues are:
 - The effect of the development on the character and appearance of the Moore Park conservation area (CA), with particular regard to:

- i) the significance of the existing building and the contribution it makes to the character and appearance of the CA;
- ii) whether, if there would be harm to heritage assets, the public benefits arising from the development are sufficient to outweigh that harm.

Reasons

The CA and the significance of the existing building

3. The statutory duty under section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 sets out that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of the conservation area.
4. The CA comprises predominantly residential areas between the two major arterial routes of Fulham Road and Kings Road. The road layout is an irregular grid pattern with neat rows of Victorian terraces built as an estate in the 1850s. The area is generally flat with few distinctive landmarks and a high degree of uniformity in the residential terraces. Kings Road is in the southern part of the CA and has a predominantly commercial character, with two and three storey early and mid-Victorian terraces, most with shop fronts at ground floor level and sash type windows above. The area has a distinctive character through the use of similar materials and detailing and the opulence of Victorian shop facades and colour schemes. The terraces are broken at the junctions of side roads, with buildings on corner plots having a degree of prominence. Despite some more modern developments, the area has largely retained its distinctive features. The significance of the CA therefore lies in its historic and architectural interest.
5. There is no statutory listing process for non-designated heritage assets (NDHA). They are defined in the National Planning Policy Framework (NPPF) as assets identified by the local planning authority (local listing) as having a degree of significance meriting consideration in planning decisions, because of their heritage interest. Paragraph 12.50 of the supporting text to Policy DC8 of the Hammersmith and Fulham Local Plan 2018 (HFLP) states that buildings have been selected in addition to listed buildings which are of merit and contribute to the character of the locality because of their townscape value, architectural quality or historic associations.
6. The building has some prominence in the street scene due to its location on a corner plot, at the junction of Holmead Road with King's Road and has a distinctive character and appearance. It is identified by the Council¹ as a Building of Merit as a two storey building with a mansard roof, formerly The Wheatsheaf Public House, built as such by TF Ingram, dating from 1939 and replacing an earlier public house on the site. It is of a neo-Georgian style, therefore a later intervention into the nineteenth century streetscene. The building is representative of the introduction of the 'improved' or 'reformed' public house design, intended to appeal to a broader customer base. The use of the glazed tiles and the window proportions and style are identified in the appellant's Built Heritage Statement of Case as typical of nineteenth century public house design, indicating that the design drew directly from architectural

¹ Conservation Area No. 30 Moore Park Character Profile Approved by committee 13 October 2004 (updated April 2008)

details seen in the surroundings. In this instance I am satisfied that the building is a NDHA. As such, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset, in accordance with paragraph 203 of the NPPF. As a heritage asset it has moderate significance, due to its relatively intact state prior to the works taking place, and degree of prominence in the area.

7. The covering up of the glazed tiles with render has obscured a distinctive and prominent feature of the building. The tiles were concentrated on the side elevation and the chamfered front corner of the building, with the 2007² permission drawings indicating that most of the front elevation at ground level consisted of windows and doors prior to the creation of the front awning. I acknowledge that some tiles had been damaged and there were some non-matching replacements, but the Google Streetview image from 2021 indicates that they were largely intact prior to the latest works. They had been only partially obscured by signage, areas of astroturf and other paraphernalia associated with the use of the building and were a distinctive and prominent feature. The render appears as a continuation of the now painted brickwork at the first floor level, and assimilates the building into the wider street scene where buildings are generally finished in painted stucco. While I acknowledge that the works have resulted in a more uniform and 'fresher' appearance to the building, its distinctive character has been undermined.
8. Prior to the works taking place, the ground floor windows were boarded up³ and the appellant states that they were modern replacements, but the openings and multi-paned arrangement appear to have been original, as shown on the photographs attached to the notice. Although the 'niches' give the impression of the rhythm of windows, they do not successfully mitigate for the loss of the original openings. The arched insets are at odds with the previous hierarchy of window proportions, and they do not reflect the dominant style of window openings in the vicinity. The works have also resulted in the loss of a potentially active frontage on the side elevation, although most of the activity is at the front of the building which is entirely glazed. I note that permission⁴ had been granted to replace windows on the front elevation with doors, but this is not comparable as it has retained rather than removed openings.
9. The rounded form of the porch is alien to the character of the building but is not a prominent feature, being small in scale and screened to a large extent by the adjacent front extension and the front canopy. It therefore has a limited harmful effect on the appearance of the building.
10. Taking the elements of work together, the development has undermined the distinctive character and appearance of the building as a later addition to the street scene and a neo-Georgian public house. It is therefore harmful to its significance as a NDHA. Although the upper elevation and the roof with dormer windows are unaffected, the works affect a large portion of the visible elevations of the building, and I therefore find the degree of harm to be moderate. As I have found that the significance of the building as a heritage asset is moderate, it follows that the weight to be afforded to the harm resulting from the works to be moderate. In the context of the CA as a whole, I

² Ref 2007/02044/FUL and Google Street view images from August 2021

³ Ref 2007/02044/FUL and Google Street view images from August 2021

⁴ Ref 1999/00839/FUL

find that the development is harmful to the contribution the building makes to the character and appearance of the CA.

Public benefits

11. In view of my conclusions in relation to the degree of harm, I find that the harm to the significance of the CA is less than substantial. In accordance with paragraph 197 of the NPPF, great weight should be given to the asset's conservation when considering the impact of development on the significance of a heritage asset. Where development leads to less than substantial harm to significance, this should be weighed against the public benefits of the development including, where appropriate, securing its optimum viable use. The PPG⁵ advises that public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the NPPF.
12. The appellant refers to the support that has been given by the UK Government to assist the hospitality and leisure sectors in their post-Covid 19 recovering, with a plethora of measures being introduced to assist in the economic recovery, such as permitted development rights. Paragraph 81 of the NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt, and requires that significant weight is placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
13. I have no reason to doubt that the works are part of an important investment into the premises, which maximises their chances of attracting new custom, increase its revenue and allow the business to remain viable in the future and to provide local employment. Moreover, there is evidence of the local support for the works, the way the business is run and the investment that has been made in the building, which brings public benefits through delivering social and economic objectives. However, no detailed evidence has been put forward to show that the previous use was failing as a result of the condition or appearance of the building, nor that the building would fall into disrepair if the appeal does not succeed. It has not been shown that the works were necessary to achieve the optimum viable use. I therefore give these public benefits moderate weight.

Planning Balance

14. The moderate weight given to the public benefits arising from the development is not sufficient to outweigh the considerable importance and weight that must be given to the conservation of the designated heritage asset. I therefore find that the development is harmful to the character and appearance of the Moore Park CA. Consequently, the development is in conflict with HFLP Policies DC1, DC4 and DC8 insofar as they require that development should create a high quality urban environment that conserves or enhances the significance of heritage assets. It conflicts with the guidance in the SPD key principles BM2, CAG2, CAG3 and AH2, and with the NPPF.
15. Two appeal decisions that have been provided with the appellant's statement which include consideration of NDHAs. However, in the case concerning the demolition of the former Lord Nelson Public House⁶, the heritage asset was

⁵ Paragraph: 020 Reference ID: 18a-020-20190723 Revision date: 23 07 2019

⁶ Appeal ref APP/D0121/W/19/3237905

found to have a low level of significance, which was outweighed by the public benefits of the mixed use redevelopment. In the case of Priory School⁷, the loss of the remaining heritage significance of the building was significantly outweighed by the benefits of the redevelopment. In neither case was the site within a conservation area. Overall, the circumstances of the cases differ greatly and they do not have any bearing on my decision.

Conclusion

16. For the reasons set out above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

N Thomas

INSPECTOR

⁷ Appeal ref APP/L3625/W/19/3240562